

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

KENNETH CLAY,

Plaintiff,

v.

TOOMBS COUNTY SHERIFF'S OFFICE;
ROBYN BANKS; JAMES RON BIVENS;
and DOUG MAYBIN,

Defendants.

CIVIL ACTION NO.: 6:18-cv-92

ORDER

Presently before the Court are Plaintiff's Objections to the Magistrate Judge's Report and Recommendation and his appeal of the Magistrate Judge's Order denying his Motion to Appoint Counsel, (doc. 100). For the reasons set forth below, the Court **OVERRULES** Plaintiff's Objections, **DENIES** Plaintiff's appeal of his Motion to Appoint Counsel, and **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court.

DISCUSSION

I. Plaintiff's Objections to the Magistrate Judge's Report and Recommendation

The Magistrate Judge recommended the Court dismiss Plaintiff's claims against the Toombs County Sheriff's Office and Doug Maybin, dismiss without prejudice Plaintiff's claims for injunctive relief, and deny as premature Plaintiff's Motion for Summary Judgment. (Doc. 88, pp. 1–2). However, the Magistrate Judge recommended Plaintiff's claims for monetary damages against Defendants Banks and Bivens be stayed pending the resolution of Plaintiff's parallel state court proceeding. (*Id.*) Plaintiff objects to the Magistrate Judge's Report. (Doc. 100). When a

party objects to a Magistrate Judge's Report and Recommendation, the district court must review the disputed portions de novo. 28 U.S.C. § 636(b)(1); Palacios v. United States, 452 F. App'x 875, 877 (11th Cir. 2011). The Court has conducted an independent and de novo review of the entire record and concurs with the Magistrate Judge's Report and Recommendation. (Doc. 88). In his Objections, Plaintiff makes assertions regarding Federal Rule of Civil Procedure 56 and qualified immunity. (Doc. 100, pp. 4–13). Plaintiff's Objections are not responsive to the Magistrate Judge's recommendations. Thus, the Court **OVERRULES** Plaintiff's Objections and **ADOPTS** the Magistrate Judge's recommendations as the opinion of the Court.

II. Plaintiff's Appeal of his Motion to Appoint Counsel

Plaintiff appeals the Magistrate Judge's denial of his Motion to Appoint Counsel. (Doc. 100, pp. 13–17). A district judge must consider a party's objections to a magistrate judge's order on a pretrial matter. See 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). However, the district judge may modify or set aside that order, and reconsider the pretrial matter, only "where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); see also Fed. R. Civ. P. 72(a). The Magistrate Judge's conclusion that Plaintiff is not entitled to the appointment of counsel is not clearly erroneous, nor is it contrary to law. The Court **DENIES** Plaintiff's appeal. The Court's Order dated March 3, 2020, remains the Order of the Court. (Doc. 87).

CONCLUSION

Accordingly, the Court **OVERRULES** Plaintiff's Objections and **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. The Court **DISMISSES** Plaintiff's claims against the Toombs County Sheriff's Office and Doug Maybin and **DISMISSES** without prejudice Plaintiff's claims for injunctive relief. The Court **DENIES** as premature

Plaintiff's Motion for Summary Judgment. Plaintiff's claims for monetary damages are **STAYED** pending the resolution of the parallel state court proceedings. Finally, the Court **DENIES** Plaintiff's appeal of the denial of his Motion to Appoint Counsel.

SO ORDERED, this 2nd day of June, 2020.



R. STAN BAKER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA